

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

DAVID WOOD

Petitioner,

v.

BOBBY LUMPKIN, Director,
Correctional Institutions Division,
Texas Department of Criminal Justice,

Respondent.

No. 3:01-CV-2103-L

**JOINT ADVISORY REGARDING QUESTIONS 1-4 FROM THIS COURT'S
OCTOBER 18, 2024, ORDER**

Mr. Wood filed an unopposed motion to appoint Gregory W. Wiercioch as co-counsel with the Federal Public Defender for the Northern District of Texas, Capital Habeas Unit (“FPD”), pursuant to 18 U.S.C § 3599. ECF No. 59. In response, this Court ordered that the “parties shall confer and file advisories (or, if possible, a joint advisory) explaining (or, if possible, stipulating)” the answers to seven questions. ECF No. 60 at 4–5. The parties have conferred and submit the following agreed answers regarding questions 1-4. Mr. Wood and the Director will submit separate responses regarding questions 5-7.

Question 1: Where was Mr. Wood convicted?

Mr. Wood was convicted by the 171st Judicial District Court of El Paso, Texas, which was physically located in Dallas after a change of venue.

Mr. Wood was indicted for capital murder in the 171st Judicial District Court of El Paso, Texas. Due to pretrial publicity, the venue for trial was transferred to Criminal District Court No. 5 of Dallas, Texas. Ex. 1. The Reporter's Record from trial lists both courts, and the trial was presided over by Judge Peter Peca of the 171st Judicial District Court of El Paso. *See, e.g.*, Ex. 2. The judgment and sentence of death list the 171st Judicial District Court of El Paso. Ex. 3. After trial the case was transferred back to the 171st Judicial District Court of El Paso. Ex. 4.

Question 2: Under applicable state law, which state district court has jurisdiction to issue an order setting Mr. Wood's execution date?

Under state law the convicting court has jurisdiction to enter an execution order. Tex. Code Crim. Proc. art. 43.141. Based on the information provided in response to Question 1, that is the 171st Judicial District Court of El Paso, Texas.

Question 3: Has this issue been raised in a timely manner in Mr. Wood's case before the appropriate state courts and, if so, when and where?

No. The 171st Judicial District Court of El Paso, Texas had jurisdiction to enter Mr. Wood's execution order, so there is no issue to raise.

Question 4: Did this court have jurisdiction over Mr. Wood's federal habeas corpus proceeding?

Yes. Jurisdiction for federal habeas corpus proceedings is controlled by 28 U.S.C. § 2241(d), which states in relevant part that jurisdiction exists "for the district within which the State court was held which convicted and sentenced him." Under

Fifth Circuit precedent, that statutory phrase refers to the physical location where the trial was held, including when, as here, the indictment and post-trial proceedings occurred in a different jurisdiction. *Matter of Green*, 39 F.3d 582, 584 (5th Cir. 1994).

Respectfully submitted,

JASON D. HAWKINS
Federal Public Defender

/s/ Jeremy Schepers
Jeremy Schepers
Supervisor, Capital Habeas Unit

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CERTIFICATE OF SERVICE

I hereby certify that on November 8, 2024, I electronically filed the foregoing document with the Clerk of the Court for the United States Court for the Northern District of Texas using the electronic case-filing (ECF) system of the Court. The ECF system will serve all registered users in this case, including counsel for the Respondent.

/s/ Jeremy Schepers
Jeremy Schepers